

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2001-100-C - ORDER NO. 2001-1021  
OCTOBER 25, 2001

IN RE: Application of Vox Populi Telecommunications, Inc. for a Certificate of Public Convenience and Necessity to Operate as a Reseller of Interexchange Telecommunications Services within the State of South Carolina and for Alternative Regulation.	) ORDER ) GRANTING ) CERTIFICATE FOR ) LONG DISTANCE ) AUTHORITY AND ) ALTERNATIVE ) REGULATION
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This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Vox Populi Telecommunications, Inc. ("Vox Populi" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. In addition, the Company requests that the Commission regulate its business services offerings under the identical regulatory treatment granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2000) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Vox Populi to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Vox Populi's

Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on September 26, 2001, at 11:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Vox Populi was represented by Scott A. Elliott, Esquire. Adelaide D. Kline, Staff Counsel, represented the Commission Staff. Vivian B. Dowdy, Auditor, and Eddie Coates, Rates Analyst, Utilities, testified on behalf of the Commission Staff.

Mr. Roger A. Smith, President and Chief Executive Officer of Vox Populi Telecommunications, Inc., appeared and testified in support of the Application. Mr. Smith testified that he is responsible for overseeing all aspects of administration and management of the Company. The record reveals that Vox Populi is a Texas corporation that was formed on October 28, 1996, and received authorization to transact business within the State of South Carolina on March 6, 2001. Mr. Smith testified that Vox Populi currently serves 13,000 customers and is authorized to provide intrastate telecommunications services in eight states, has an application pending in Tennessee, and has letters of engagement in Pennsylvania, Maryland, New Jersey and the District of Columbia. He said Vox Populi intends to operate as a reseller of intraLATA and interLATA intrastate telecommunications services to the public on a statewide basis. VOX seeks authority to offer interLATA and intraLATA direct-dialed services including

(1+) service, flat rate service, 800 inbound service, and travel cards. Mr. Smith's testimony reveals that Vox Populi has no plans at this time to construct any telecommunications transmission facilities of its own and seeks no construction authority. His testimony further states that Vox Populi will not be selling prepaid calling cards nor will it require advance payments or deposits.

Regarding the Company's technical and financial ability to offer telecommunications services in South Carolina, Mr. Smith testified that Vox Populi is a financially sound company that had cash flow in excess of \$600,000 in the year 2000. He said the Company is looking to have a record year this year as its business has doubled in just the first two quarters of 2001 from what it was all of last year. He offered that the Company has three lines of credit with Texas banks and lending institutions.

Mr. Smith opined that Vox Populi intends to utilize Alliance Group Services, Inc. (AT&T Network) and Global Crossing as its underlying carriers and will choose its underlying carriers based upon the quality of service of the carriers properly certified by the Commission to provide such service. Mr. Smith testified that Vox Populi will offer services to the average long distance customer in South Carolina. He said Vox Populi's target market is usually the segment of the long distance population that is overlooked by the big long distance companies. Mr. Smith said that Vox Populi offers excellent service and customer service. He explained that Vox Populi will do its marketing in a face to face manner. He said Vox Populi traditionally markets its services at State fairs, shows and festivals by setting up a booth which invites potential customers to come in and pick up one of its telephones and make a free long distance call. The potential customer is asked

to sign a letter of interest card which informs them that their interest will be followed up with literature and a telephone call. He said the subsequent telephone conversation is tape recorded as a record of the customer's intent to switch its services to Vox Populi. Mr. Smith said his Company's marketing plan does not include telemarketing or unsolicited calls and he is aware of the Commission's marketing guidelines and will provide interstate services in compliance with all FCC rules and regulations.

Wilma K. Smith will be the Company's regulatory contact person. She can be reached at (281) 821-5749. Mr. Smith testified that Cindy Hale is the Company's customer service manager and can be reached toll free at (877) 994-1165. He said the customer service department is available from 8:00 a.m. until 7:00 p.m. Monday through Friday with voice mail available twenty-four hours a day, seven days a week. He explained that Vox Populi has an emergency telephone number for technical problems that is answered twenty-four hours a day. Mr. Smith testified that Vox Populi's customers receive bills on which the Company's name and toll-free telephone number will appear.

As to Vox Populi's managerial abilities to offer the services it proposes to offer in South Carolina, Mr. Smith testified that the Company is guided by an experienced and highly able management team that represents a broad spectrum of business and technical disciplines with many years of individual and aggregate telecommunications experience. He said he has been in the telecommunications industry for eleven years and has approximately eighteen years of experience in the communications business. Mr. Smith's background includes a number of years in radio, television and marketing. Mr. Smith, the

Company's President, testified that key management includes Lauren T. Fisher, Vice President of Marketing and Secretary. Wilma K. Smith serves as Treasurer.

Vivian B. Dowdy testified as to her findings of the Audit Department's review of Vox Populi's financial statements that were submitted as part of the Company's Application. Ms. Dowdy testified that she reviewed financial statements for nine months ending September 30, 2000, and twelve months ending December 31, 1999, as a part of its filing. She said the income statement for both time periods showed a profit from operations. She said the balance sheet as of September 30, 2000, indicated that cash made up 1% of the Company's total assets and that cash made up 2% of the Company's total assets as of December 31, 1999. Ms. Dowdy further testified that the current ratio for the period ending December 31, 1999, was 1.51 which indicates there were sufficient current assets to meet all of the current liabilities as of the balance sheet date. She said long-term debt for both periods comprised less than 1% of total liabilities and capital of the balance sheets. According to Ms. Dowdy, the Company's retained earnings and stockholders' equity as of September 30, 2000 were positive and that retained earnings as of December 31, 1999, were negative, due to prior losses. She said stockholders equity as of December 31, 1999, was positive. She said the Company, as of the date of the financial statements, was liquid and in a position to begin operations in South Carolina. Ms. Dowdy further testified that each certified telecommunications company is required to keep South Carolina specific records and to file Annual Reports and the Intrastate State Universal Service Fund (USF) worksheet on an annual basis. She additionally explained when the various reports are due to be filed with the Commission.

The purpose of Mr. Coates' testimony was to present to the Commission the findings of the Utilities Department regarding the Application of Vox Populi for a Certificate of Public Convenience and Necessity. Additionally, the purpose of his review was to ensure that the Company's tariff complied with the Commission's regulations, policies and Orders. Mr. Coates' testimony consisted of comments and suggested modifications to the Company's tariff. Mr. Smith agreed the Company would make all the changes to Vox Populi's tariff as recommended by Commission Staff witness Eddie Coates and would file a copy of the bill form used by the Company. Further, Mr. Coates recommended the Commission grant the Company's requested waiver concerning where company records are kept.

According to the Application and Mr. Smith's testimony, Vox Populi requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (1976) so that Vox Populi can maintain its records outside of South Carolina. The Company wishes to maintain its books and records at its headquarters in Texas; it will keep South Carolina specific records. Mr. Smith stated that the Company is aware and agrees to abide by the Commission's regulation that requires that these records be made available for examination by the Commission at reasonable hours. Vox Populi further requested the Commission's permission to be exempt from any record-keeping rules or regulations that might require the Company to maintain its financial records in conformance with the Uniform System of Accounts. According to the record, Vox Populi wishes to maintain its book of accounts in accordance with the Generally Accepted Accounting Principles (GAAP).

According to Mr. Smith, Vox Populi has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Additionally, he said that Vox Populi has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. According to the testimony, Vox Populi has not marketed its services in South Carolina prior to receiving certification. Mr. Smith testified that the Company has not received revenues from the completion of intrastate calls in South Carolina prior to receiving certification. Finally, Mr. Smith testified Vox Populi will abide by all the Commission's rules, regulations and Orders upon the Company receiving certification to operate as a reseller of intrastate interexchange telecommunications services in South Carolina. The Company agreed to provide the Commission with the final Tariff and a copy of its Bill Form, according to 26 S. C. Code Ann. Regs. 103-612.2.2 and 103-622.1 (1976).

Vox Populi requested that all of its business service offerings be regulated pursuant to the procedures described and set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. It is Vox Populi's intent by this request to have its business services regulated in the same manner as this Commission has permitted for AT&T Communications of the Southern States.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

### **FINDINGS OF FACT**

1. Vox Populi is organized as a corporation under the laws of the State of Texas and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Vox Populi is a provider of long distance services and wishes to provide long distance services in South Carolina.

3. Vox Populi has the experience, capability, and financial resources to provide the services as described in its Application.

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Vox Populi to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for the long distance services of Vox Populi which are consistent with the principles and procedures established for alternative regulation for business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under the Commission approved alternative regulation, the business service offerings of Vox Populi including consumer card services, and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T



Communications in Order Nos. 95-1734 and 96-55 in Docket No. 96-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Vox Populi also.

3. The Commission adopts a rate design for Vox Populi for its resale of residential interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. Vox Populi shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Vox Populi shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services

reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 1999).

5. If it has not already done so by the date of issuance of this Order, Vox Populi shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations. Further, Vox Populi shall file a copy of its Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 102-622.1 (1976) with its final Tariff.

6. Vox Populi is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. Vox Populi shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Vox Populi changes underlying carriers, it shall notify the Commission in writing.

9. Vox Populi shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at

[www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms). The title of this form is "Annual Information on South Carolina Operations For Interexchange Companies and AOS". Be advised that the Commission's annual report for telecommunication companies requires the filing of intrastate revenues and intrastate expenses. Vox Populi shall also file with the Commission a copy of its general bill form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 103-622 (1976 and Supp. 2000).

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Vox Populi shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the Commission's website at [www.psc.state.sc.us/forms](http://www.psc.state.sc.us/forms); this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

11. With regard to the origination and termination of toll calls within the same LATA, Vox Populi shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has

been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

12. By its Application and testimony at the hearing, Vox Populi requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Regs. 103-610 (1976). The Commission grants the Company's request to waive the record keeping regulation so that its books and records may be kept at its principal office and headquarters in Texas. Further, the Commission grants Vox Populi's request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA.

13. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)